



November 22, 1999

Mr. Brinkley L. Oxford
City Attorney
City of Edinburg
210 West McIntyre Street
P.O. Box 1079
Edinburg, Texas 78540-1079

OR99-3343

Dear Mr. Oxford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130065.

The City of Edinburg Police Department (the "department") received a request for a copy of the police report for case number 148,055-B. You claim that the department is not required to respond to the request for information pursuant to section 552.028 of the Government Code because the request was made by a prisoner. Alternatively, you assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered your argument and the exception you claim and have reviewed the submitted information.

The Seventy-sixth Legislature amended section 552.028 of the Government Code to provide:

- (a) A governmental body is not required to accept or comply with a request for information from:
 - (1) an individual who is imprisoned or confined in a correctional facility; or
 - (2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.¹

¹Act of May 10, 1999, 76th Leg., R.S., ch. 154, § 1, 1999 Sess. Law Serv. 623 (Vernon) (to be codified as an amendment to Gov't Code § 552.028(a)).

You assert that the individual who is the subject of the police report is currently incarcerated. We agree that Government Code section 552.028 gives the department the discretion whether or not to reply to the request.

Since we have determined this matter pursuant to section 552.028, we need not address your claim under section 552.108 of the Government Code. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Carla Gay Dickson".

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/nc

Ref: ID# 130065

Encl. Submitted documents

cc: Mr. Hermenegildo Patlan
P.O. Box 4200
Three Rivers, Texas 78071
(w/o enclosures)